IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2651 OF 2005

Kapil Shantilal Kothari. ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr.A.R.Pande, for the Applicant.

Mr.K.V.Saste, APP for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

25th APRIL, 2005

P.C.:

1. Heard the counsel for the parties.

2. The applicant has been arrested in connection with the C.R.no.180 of 2005 for the offence punishable under section 363,364(A), 387 of the I.P.Code. The applicant has been arrested on 31st March, 2005 on suspicion. In fact the victim child is niece of the applicant. The

applicant was staying in the same premises. The applicant has been arrested on suspicion because answers given by him to the police during investigation were not consistent. However, no incriminatory material has been collected so far, against the applicant. On the other hand, the complainant(father of the victim child), as well as the grandfather of the victim child have filed affidavit, clearly stating that they have no suspicion against the present applicant who was staying alongwith them.

3. Taking overall view of the matter, the applicant is only of 24 years of age, even the complainant has no suspicion against the applicant and that no evidence has been collected to indicate complicity of the applicant and that the applicant is in judicial custody from 4th April, 2005, the applicant deserves to be enlarged on bail on following conditions.

(i) The applicant is directed to be released on bail in connection with the C.R.NO.180 of 2005, registered with Goregaon Police Station, Mumbai on

executing personal bond in the sum of Rs.10,000/-(Rs.Ten thousand only) with two local sureties in like amount.

(ii) The applicant shall not influence prosecution witnesses nor tamper with any prosecution evidence in any manner, whatsoever.

(iii) The applicant shall co-operate for the purpose of investigation and report to the concerned police station as and when called upon, till filing of the charge-sheet; and the applicant shall co-operate for early disposal of the case as condition for bail. In the event, the trial court is of the opinion that the applicant is responsible for delay in trial, the same be recorded in roznama and that can be the basis for cancellation of bail.

(iv) Initially, the applicant be released on cash bail, to be substituted by appropriate surety within 10 days from

the date of release.

4. The application disposed of accordingly.